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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,082	11/17/2003	Keif M. Fitzgerald	ENDOV-66188	4869

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EXAMINER

BOUCHELLE, LAURA A

ART UNIT	PAPER NUMBER
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3763

MAIL DATE	DELIVERY MODE
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09/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/716,082

Applicant(s)

FITZGERALD ET AL.

Examiner

Laura A. Bouchelle

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 and 24-33 is/are pending in the application.
- 4a) Of the above claim(s) 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20, 24-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 27-33 is withdrawn in view of the newly discovered reference(s) to Kraus et al (US 5687727). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 17, 18, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Whitehouse et al (US 4743265). Whitehouse discloses a catheter placement device comprising an elongate catheter member 20, a catheter handle 14, 16 secured to the catheter, and a platform 12 removable secured to the catheter handle. The platform has protruding stabilizers 30a,b. The platform is slidably secured to the catheter handle

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17, 18, 20, 24-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraus et al (US 5687727) in view of Whitehouse et al.

6. Kraus discloses a catheter adaptor with slitting blade comprising an elongate catheter member having an outer member 51 and an inner member 46, the outer member being slidable with respect to the inner member. The handle includes a knob 31, slidable with respect to the handle, a cutter 25 attached to the knob and slidable relative to the handle and the outer member, the knob attached to the outer member, and the cutter configured to longitudinally dissect the outer member (Col. 3, lines 56-62, Col. 4, lines 60-63, Col. 5, lines 10-17).

7. Claim 17, 18, 20 differ from Kraus in calling for the device to comprise a platform removably secured to the catheter handle, the platform to comprise stabilizers, and the platform to be slidably secured to the catheter handle. Whitehouse teaches a catheter placement device comprising a catheter, and catheter handle having a platform 12 slidably attached, the platform having stabilizers 30a,b. This configuration allows for the catheter to be comfortably and securely attached to the patient. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Kraus to have a platform as taught by Whitehouse so that the device can be secured to the patient.

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8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehouse. Claim 19 differs from Whitehouse in calling for the lower surface of the platform to be curved. At the time the invention was made, it would have been an obvious matter of design choice to have a curved lower surface. Whitehouse discloses that the base member is to be attached to the patient's skin. It would have been obvious to one of ordinary skill in the art to form a platform that is to attach to a person's body to have a curved, or a pliable surface so that the device can easily conform to the surface to which it is to be attached. Therefore, it would have been prima facie obvious to modify the device of Whitehouse to obtain the invention as specified in claim 19 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art.

Response to Arguments

9. Applicant's arguments with respect to claims 17-20, 24-26 have been considered but are moot in view of the new ground(s) of rejection. However, the examiner would like to address applicant's previous arguments, submitted in an appeal brief, with regards to the Whitehouse reference.

10. Applicant argues that Whitehouse does not teach a platform removably secured to a catheter handle. The examiner believes that these components are removably secured together. As can be seen in Figs. 6A-C, the handle is attached to the base via portions 18a,b. If one were to lift the handle by portions 62a,b, for example, as seen in Fig. 6A, one would expect that the

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base portion would move with the handle. This is in contrast to the device as pictured in Fig. 6C, where the handle could surely be lifted without displacing the base.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NICHOLAS LUCCHESI
SUPERVISOR EXAMINER
TECHNICAL 3700

Laura A Bouchelle
Examiner
Art Unit 3763

